

**§ 15.72 Production or disclosure prohibited unless approved by the Secretary.**

(a) Any demand of a court or other authority or any request to an employee of the Department to produce any material contained in the files of the Department, or to disclose any information relating to material contained in the files of the Department, or to disclose any information or produce any material acquired as a part of the performance of the employee's official duties or because of the employee's official status for use in a legal proceeding, shall state with particularity the material sought to be obtained or the information sought to be disclosed.

(b) No employee of the Department shall comply with any such demand or request without the prior approval of the Secretary.

(c) In determining whether to grant approval for an employee of the Department to testify in a legal proceeding, the Secretary shall follow the standards set forth in subpart I.

(d) Where the demand or request seeks only the production of documents, the Department's procedure for authenticating documents by a keeper of the records shall be the Department's method for response. That authentication shall be evidence that the documents are true copies of documents in the Department's files.

[52 FR 12160, Apr. 15, 1987]

**§ 15.73 Procedure in the event of a demand for production or disclosure.**

(a) Whenever a demand is made upon an employee of the Department for the production of material or the disclosure of information described in § 15.71, the employee shall immediately notify the Secretary and either the General Counsel or the appropriate Regional Counsel. The *appropriate Regional Counsel* shall mean the Regional Counsel for the Regional Office having delegated authority over the project or activity with respect to which the information is sought. If possible, the Secretary shall be notified before the employee concerned replies to or appears before the court or other authority.

(b) If response to the demand is required before the instructions from the

Secretary are received, the U.S. Attorney or such other attorney as may be designated for the purpose, will appear with the employee of the Department upon whom the demand has been made, and will furnish the court or other authority with a copy of the regulations contained in this subpart and inform the court or other authority that the demand has been or is being, as the case may be, referred for prompt consideration of the Secretary. The court or other authority shall be requested respectfully to stay the demand pending receipt of the requested instructions from the Secretary.

[52 FR 12160, Apr. 15, 1987]

**§ 15.74 Procedure in the event of an adverse ruling.**

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 15.73(b) pending receipt of instructions from the Secretary, or if the court or other authority rules that the demand must be complied with irrespective of the instructions from the Secretary not to produce the material or disclose the information sought, the employee upon whom the demand has been made shall respectfully decline to comply with the demand (*United States ex rel. Toughy v. Ragen*, 340 U.S. 462).

[52 FR 12161, Apr. 15, 1987]

**Subpart I—Testimony of Employees of the Department in Legal Proceedings**

SOURCE: 52 FR 12161, Apr. 15, 1987, unless otherwise noted.

**§ 15.81 Purpose.**

(a) This subpart prescribes the policies and procedures of the Department with respect to testimony of its employees as witnesses in legal proceedings with respect to material contained in the files of the Department or information learned as part of the performance of the their official duties or because of their official status.

(b) For purposes of this subpart, the term *employee of the Department* includes current and former officers and

employees of the United States appointed by or subject to the supervision of the Secretary, but does not include officers and employees covered by part 2004 of this title.

[52 FR 12161, Apr. 15, 1987, as amended at 60 FR 58457, Nov. 27, 1995]

**§ 15.82 Testimony in proceedings in which the United States is a party.**

(a) In any legal proceeding in which the United States is a party, an employee of the Department may not be called to testify as an expert or opinion witness by any party other than the United States, but may be called by such non-federal party to testify as to facts.

(b) Whenever, in any legal proceeding in which the United States is a party, the attorney in charge of presenting the case for the United States requests it, the Secretary shall arrange for an employee of the Department to testify as a witness for the United States.

**§ 15.83 Legal proceedings among private litigants; general rule.**

In any legal proceeding exclusively among private litigants, no employee of the Department may testify as an expert or opinion witness as to any matter related to his or her duties or the functions of the Department, including the meaning of Departmental documents.

**§ 15.84 Legal proceedings among private litigants; subpoenas.**

Whenever, in a legal proceeding exclusively among private litigants, an employee of the Department is served with a subpoena or is requested to testify, the procedures set forth in §§ 15.72–15.74 shall be applicable.

**§ 15.85 Legal proceedings among private litigants; expert or opinion testimony.**

If, while testifying in a legal proceeding exclusively among private litigants, an employee of the Department is asked for expert or opinion testimony, the employee shall decline to answer on the grounds that he or she is forbidden to do so by this part.

**Subpart J—Processing Request for Declassification and Release of Classified Material**

**§ 15.91 Authority for release or denial of classified material.**

(a) All requests by the public, Government employees, or other Government agencies, for the release of classified information shall be directed to the Inspector General, who will ensure that:

(1) All requests are acknowledged within 10 working days.

(2) The request is immediately coordinated with the original classification authority to determine whether the association of that authority with the classification of the information requires protection.

(3) In those instances when the answer to paragraph (a)(2) of this section is *no*, requests will be referred, along with the requested document and if appropriate any recommendations to withhold, for direct handling by the original classification authority. The requester shall be advised in writing of this action.

(4) Whenever it is necessary, by either the original classification authority or HUD to deny the declassification and release, in whole or part, of the requested information, the requester shall be notified, in accordance with Executive Order 12356, of:

(i) The reason for the denial,  
(ii) The requesters' right to appeal the denial, and

(iii) The name, title, and address of the appellate authority.

[44 FR 54478, Sept. 20, 1979, as amended at 48 FR 15895, Apr. 13, 1983. Redesignated at 52 FR 12161, Apr. 15, 1987]

**PART 16—IMPLEMENTATION OF THE PRIVACY ACT OF 1974**

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